



3200 Devine Street, Suite 103  
Columbia, South Carolina 29205  
info@garberreporting.com  
Telephone: (803) 256-4500

**BRIAN M. BOGGESS, MS, PE**

*February 27, 2025*

**Robert Marberger**

VS

**Jeremy R. Nivens, et al**

**3:22-cv-02375-MGL**

REPORTER: Cassandra Vance

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

CASE NO.: 3:22-cv-02375-MGL

Robert Marberger, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Jeremy R. Nivens and DZYK )  
Transportation Services, LLC, )  
 )  
Defendants. )  
 )

VIDEOCONFERENCE DEPOSITION OF  
BRIAN M. BOGGESE, M.S., P.E.

\*\*\*\*\*

Thursday, February 27, 2025

3:00 p.m. - 3:35 p.m.

The deposition of BRIAN M. BOGGESE,  
M.S., P.E., was taken on behalf of the  
Plaintiff via videoconferencing on the 27th  
day of February, 2025, before Cassandra E.  
Vance, Court Reporter and Notary Public in  
and for the State of South Carolina, pursuant  
to Notice of Deposition and agreement of  
counsel.

## 1 APPEARANCES:

2 Lauren Heath Carroway, Esquire  
3 Morgan & Morgan, P.A.  
4 1544 Fording Island Road, Suite A  
5 Hilton Head, South Carolina 29926  
6 Counsel for the Plaintiff

7 C. Guy Castles, IV, Esquire  
8 McAngus Goudelock & Courie, LLC  
9 Meridian Building, 10th Floor  
10 1320 Main Street  
11 Columbia, South Carolina 29201  
12 Counsel for Defendant DZYK Transportation Services, LLC

13 Mark V. Gende, Esquire  
14 Sweeny, Wingate & Barrow, PA  
15 1515 Lady Street  
16 Columbia, South Carolina 29201  
17 Counsel for Defendant Jeremy R. Nivens

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## 24 EXHIBITS

25 (There were no exhibits marked during the deposition.)

## STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the South Carolina Rules of Civil Procedure.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby reserved.

1 BRIAN M. BOGGESS, M.S., P.E., having  
2 been duly sworn, deposes and testifies as  
3 follows:

4 DIRECT EXAMINATION

5 BY MS. CARROWAY:

6 Q Good afternoon, Mr. Boggess. My name --

7 MR. CASTLES: You know what I'm going to  
8 cut you off and say.

9 MS. CARROWAY: Oh, yeah.

10 MR. CASTLES: Can we do an objection for  
11 one is an objection for all?

12 MS. CARROWAY: Yes.

13 MR. CASTLES: Okay.

14 BY MS. CARROWAY:

15 Q My name is Lauren Carroway and I represent  
16 the Plaintiff in this matter. I am going to take  
17 your deposition this afternoon. Have you had your  
18 deposition taken before?

19 A Yes, ma'am.

20 Q Okay. I'm going to skip over all the hoopla  
21 since you're somewhat used to it. Can you state  
22 your full name for the record?

23 A Sure, Brian Michael Boggess.

24 Q Okay. And, Mr. Boggess, what's your  
25 professional address?

1 A 3139 Westinghouse Boulevard, Charlotte, North  
2 Carolina, 28273, and the company's SEA Limited.

3 **Q Okay. And who retained you in this case?**

4 A Mr. Hayes first reached out to discuss it,  
5 and then I understand it was a -- kind of a joint  
6 retention between him and counsel -- actually, I  
7 think he first said Adam Ribock, but MGC.

8 **Q Okay. And how many depositions have you**  
9 **given?**

10 A I don't know an exact count. A lot. You  
11 know, I'd say more than a hundred over my career.

12 **Q Okay. How about testifying in trials? Do**  
13 **you know how often you've testified in a trial?**

14 A Again, several. I think, again, over my  
15 career, more than 40 or 50 at this point.

16 **Q Okay. And what are your qualifications?**

17 A Undergraduate degree in mechanical  
18 engineering, master's of science in mechanical and  
19 aerospace, specializing in automotive safety and  
20 biomechanics.

21 Work experience-wise, design and crash-tested  
22 cars at Honda for -- between six and seven years.  
23 And I've worked as a licensed professional  
24 engineer since 2006, I believe is when I first got  
25 licensed. And, again, specialized training in

1 reconstruction, biomechanics, and continuing  
2 ongoing education.

3 **Q Okay. Do you hold any specific**  
4 **certifications?**

5 A Licensure is professional engineer, but I'm  
6 not -- I can't think of any other certifications  
7 that would be applicable.

8 **Q And what were you retained to do for the**  
9 **Defense?**

10 A Generally speaking, essentially to review  
11 available materials, provided materials, conduct a  
12 reconstruction and biomechanics analysis to the  
13 extent possible given the evidence.

14 **Q So, have you been able to complete that**  
15 **analysis at this point?**

16 A I mean, I've completed what I have available  
17 to me at this point, yes ma'am.

18 **Q So are you prepared to give me your final**  
19 **opinions about the case?**

20 A I certainly can give you my opinions today.  
21 I mean, as I understand, you know, there's been  
22 depositions as recently as Monday of Mr. Miller.  
23 I understand Mr. Chapman, I think, was deposed  
24 over the last couple hours, even, so. But,  
25 certainly, I can provide the opinions based on the

1 materials I have and my, you know, understanding  
2 of things at this point.

3 **Q Okay. And tell me what -- what were those**  
4 **materials that you used to reach your opinion?**

5 A Sure. So, I was provided a couple traffic  
6 collision reports, South Carolina collision  
7 reports, two different ones; incident report from  
8 Cowan Systems; again, just various discovery  
9 documents.

10 Repair estimates for the Cowan vehicle;  
11 photographs from the scene; video, dash camera  
12 footage from the scene, from both -- I think they  
13 came from SCDPS, as well as the Sumter County  
14 Sheriff's Office. I believe there was two  
15 different folders labeled for that.

16 I received the report of Mr. Chapman and his  
17 associated file materials; a couple deposition  
18 transcripts, that being Mr. Marberger and  
19 Mr. Nivens; some medical records of Mr. Marberger.  
20 I think that summarized what I was provided at  
21 this point.

22 **Q Okay. And have you personally reviewed all**  
23 **of these documents?**

24 A I have.

25 **Q Who provided them to you?**

1       A       I believe they came directly from Mr. Hayes's  
2       office.

3       **Q       And do you know when they were provided to**  
4       **you?**

5       A       I don't know the exact date. I mean, it was  
6       late '24, somewhere in the 2024 -- you know. I  
7       don't know if that was December, November. I  
8       could probably look it up, but...

9       **Q       Have you requested any additional materials**  
10       **from Mr. Hayes or Mr. Castles' office that have**  
11       **not been provided to you?**

12       A       I guess, you know, typically, I would ask:  
13       Are these all the photographs? Are there anything  
14       else? I mean, I -- you know, I think I've asked  
15       for, you know, again, just generally, "What do you  
16       have and please provide it." There's nothing  
17       specific that I've said, "Can I have," and they've  
18       denied me having or something like that.

19       **Q       Are there things that you do not have in this**  
20       **case that you wish you had?**

21       A       I mean, there's always things you -- you  
22       know, you'd like to have. You'd like to have more  
23       photographs. You'd like -- you know, there's --  
24       within the body cam footage, someone's discussing  
25       a video that I know Mr. Chapman and I both have



1 referenced the discussion of. So, you know, if  
2 that's out there, I'd love to have that.

3 But, again, I think I -- for the opinions I'm  
4 offering, I think I have enough, or I do have  
5 enough to offer the opinions I'm offering.

6 Q Okay. Did you physically instruct Mr. --  
7 inspect, I apologize, Mr. Nivens' truck?

8 A I did not, no.

9 Q Did you personally inspect Mr. Marberger's  
10 truck?

11 A I did not.

12 Q Okay. Did you go to the accident scene in  
13 Sumter County?

14 A I have not at this point, no, ma'am.

15 Q Did you personally take any measurements?

16 A I did not.

17 Q Did you speak with Mr. Nivens, the Defendant  
18 in this case?

19 A I have not. Read his deposition, but I have  
20 not spoken directly to him.

21 Q Okay. What -- what about Mr. Miller, the  
22 truck driver driving the truck first in line, did  
23 you speak with him?

24 A I have not, no, ma'am.

25 Q Did you speak with any of the investigating

1     **officers?**

2     A     I have not at this point, no, ma'am.

3     **Q     You would agree that you could have**  
4     **interviewed any of these individuals, correct?**

5     A     I mean, if they're available and willing to  
6     speak, sure, I suppose I could.

7     **Q     Okay. Did you calculate the speeds of the**  
8     **vehicles?**

9     A     I calculated things like barrier equivalent  
10    velocity for certain areas of damage and made  
11    certain calculations from that.

12           The speeds of the vehicles, in general, we  
13    don't have enough information to make absolute  
14    travel speed calculations for those vehicles.

15    **Q     Okay. Did you calculate the point of impact**  
16    **for the vehicles?**

17    A     Wouldn't say necessarily it's a calculation.  
18    I mean, I've made assessments of -- of where the  
19    points of impact were or various points of impact  
20    were throughout the sequence of events.

21    **Q     Were you able to review any ECM data for any**  
22    **of the vehicles?**

23    A     No, ma'am.

24    **Q     What about an engine download?**

25    A     No, ma'am. The -- not been provided anything

1 from either truck, either -- I should say -- not  
2 to confuse things, there's three trucks, depending  
3 on how you want to define it.

4 The -- I have not seen engine ECM-type data  
5 from either the International or the Peterbilt,  
6 and the Chevrolet did not have a module that was  
7 imageable.

8 **Q Okay. What information that has been**  
9 **provided to you do you feel is significant?**

10 A I mean, I don't really know how to rate it as  
11 significant or not. I took it all into account.  
12 I mean, the pictures that were provided from the  
13 scene, the dash camera from the scene to show  
14 where vehicles were, and same thing with the  
15 photographs, where the contact areas are, the  
16 inspection photographs of the Chevrolet that my  
17 office was able to capture, as well as the  
18 photographs taken by Mr. Chapman of the same  
19 vehicle, again, I used all that.

20 I mean, all that factors into how the  
21 vehicles got together, the magnitude of things,  
22 the measurements that we captured of the damage to  
23 the Chevrolet that we were able to use and  
24 articulate into our calculations of crush energy,  
25 things like that. I mean, all that's important.

1           The testimony is important. The statements  
2           that we -- at least that I have to date are  
3           important, so.

4           **Q       And you mentioned earlier repair estimates.**  
5           **How much were the repair estimates?**

6           A       I don't recall the number. I think it was  
7           for the Cowan vehicle. I don't remember the  
8           number. I'd have to go back and look it up.

9           **Q       Can you tell me what the damage was to each**  
10          **of the vehicles?**

11          A       I mean, generally speaking, there's certain  
12          areas, things that we can walk through, yes,  
13          ma'am.

14          **Q       Okay. Well, let's start -- let's start with**  
15          **the Defendant's vehicle, the Defendant's**  
16          **tractor-trailer.**

17          A       Okay. I mean, what's evident to -- in the  
18          damage is, I mean, there's -- there's gouging  
19          marks on the side of the sleeper berth and the  
20          body of the cab. There's -- appears to be some  
21          contact up around the front left headlight  
22          extreme. Those are the most evident areas of  
23          contact.

24          **Q       Was there any other damage noted?**

25          A       I don't recall at this point.

1       **Q       What about the Plaintiff's pickup truck?**

2       A       I mean, there's -- clearly, there's evident  
3       damage to the right rear axles. At least spring,  
4       the suspension, if you will, definitely has damage  
5       to it. I mean, the tire's still inflated, but if  
6       it took that kind of load, I'm sure the -- you  
7       know, there's -- I wouldn't want to reuse that  
8       tire, but it did not get cut down, necessarily.

9               The flatbed is slightly out of alignment, but  
10       appears to still be intact, but there is some  
11       slight malalignment of that.

12              The driver's -- or, sorry, the passenger side  
13       cab body, there's some -- you know, there's damage  
14       to the door panels of that.

15              And then there's heavy frontal damage, hood,  
16       bumper, reasonably the radiator, you know, frame  
17       ends, things like that, given the magnitude of  
18       that damage and all the, you know, underlying  
19       engine room damage that would be associated with  
20       all of that frontal crush.

21       **Q       And what about damage to Mr. Miller's**  
22       **tractor-trailer?**

23       A       I mean, the visible is clearly the trailer  
24       right side, rear part of the trailer. The ICC  
25       bar, you know, that structure of it is clearly

1 damaged, pushed forward.

2 **Q What -- what references did you use in**  
3 **creating your report?**

4 A You know, I mean, I obviously would be  
5 considering, utilizing several studies that kind  
6 of support fundamental reconstruction.

7 I did make reference to a few in my report,  
8 specifically the "Traffic Accident Reconstruction"  
9 textbooks published by Northwestern University;  
10 author is Fricke in those.

11 The -- there's an SAE paper I make reference  
12 to about Delta-V barrier equivalent velocity and  
13 accelerations, and it related to vehicle crashes,  
14 made reference to that, as well, specifically in  
15 my report.

16 **Q And do you believe that -- like the SAE**  
17 **Delta-V, are these authoritative materials?**

18 A I wouldn't call -- no, ma'am, I wouldn't call  
19 them authoritative. I mean, they're  
20 reconstruction studies, text, you know, going  
21 through some fundamental physics. They provide  
22 some good information. I certainly wouldn't call  
23 them authoritative, though.

24 **Q Okay. And how did you choose -- choose that**  
25 **to rely on?**

1       A       I mean, the -- the SAE paper is  
2       peer-reviewed, published. You know, it's a good  
3       paper. It provides good definitions, terminology  
4       of fundamental: What is Delta-V? What is barrier  
5       equivalent velocity? How are they interrelated?  
6       Basic analyses. It's a good study.

7               The Fricke -- the Fricke author, "Traffic  
8       Accident Reconstruction" textbooks are -- you  
9       know, they're the textbook utilized in the  
10      Northwestern Traffic Institute when they teach  
11      accident reconstruction.

12             They are good information. There's some good  
13      information in there, fundamental analysis,  
14      discussion, case examples. And so, again, they're  
15      good -- you know, they're good text. You know,  
16      they're not perfect. There's -- I take issue with  
17      certain things within those texts.

18      **Q       Okay. Let's talk about, what is your**  
19      **specific opinion as to how this crash occurred?**

20      A       So, I lay out in my report that there's  
21      basically kind of four, you know, postulated, you  
22      know, hypotheses, and I've kind of tried to rule  
23      out what I could.

24             So, you know, as I said in my report, I don't  
25      believe -- it's my opinion that it did not occur

1 in the way Mr. Marberger has testified; that is  
2 that he was in the left lane, he got merged into,  
3 effectively, pushed into a wall that doesn't  
4 exist, and, you know, my report kind of walks  
5 through that.

6 You know, there's -- clearly, there's two  
7 primary events. There is a -- best I can tell,  
8 there is the Chevrolet, your client's vehicle,  
9 making frontal contact to the rear of the Miller  
10 vehicle, the International trailer -- or the  
11 trailer in tow by the International, rather --  
12 that has certain parameters there.

13 And then there is a -- there's a separate  
14 kind of corner sideswipe, if you will, of the  
15 Peterbilt as it moves up along the side, around  
16 the right side of the Chevrolet. So, those --  
17 there's two very distinct different contact marks.

18 Based upon the reconstruction, the -- it is  
19 more probable that the Chevrolet ran into the back  
20 of the International first, and that that  
21 collision -- and we can talk about the severity of  
22 it, perhaps, but -- and then the secondary, lesser  
23 degree sideswipe, corner swipe by the Peterbilt  
24 relative to the right rear corner, right side of  
25 the Chevrolet.



1 Q Okay. And what -- you said you believe it's  
2 more probable that -- that the Chevrolet ran into  
3 Miller's rear and then there was a corner swipe of  
4 the Chevy. What did you base that on?

5 A A couple things. I mean, based on the  
6 positioning of the vehicles, the severity of the  
7 different collisions...

8 You know, I think one of the things, perhaps,  
9 Mr. Chapman and I would agree on is that the --  
10 the BEV of the Chevrolet to the back of the  
11 International's trailer is in that 15- to  
12 20-mile-an-hour range.

13 He came up with some, I think, around 16,  
14 maybe some higher. My calculations in my packet  
15 are going to be around 18 plus. But, again, a --  
16 you know, that type of range BEV.

17 But that would be consistent with a notably  
18 higher striking speed in order to create that BEV  
19 because you're going to get a shared energy  
20 distribution or what's called "work energy" or  
21 "crush energy" associated with the damage to both  
22 vehicles and the resulting Delta-V's to both  
23 vehicles associated with that.

24 That -- the contact between the Peterbilt --  
25 and, actually, if I just back up for a second.

1 You know, Mr. Chapman, for example, says that he  
2 believes that, you know, it would take a 25 -- you  
3 know, around 30 -- I think he said 25 to 35 was  
4 his calculations -- around a 30 mile-an-hour  
5 transfer of speed between -- to the Chevrolet by  
6 the Peterbilt's propellant to the -- to the extent  
7 by which it strikes the back of the leading  
8 International.

9 The contact between those vehicles, the  
10 damage between those two vehicles, do not support  
11 a speed change that would accelerate the Chevrolet  
12 up to a speed that would provide enough energy to  
13 cause the frontal damage.

14 So, when you analyze the magnitude of the  
15 interaction between those two vehicles, yes,  
16 there's a few miles an hour of BEV, if you will,  
17 of damage energy to them, but those two vehicles  
18 never reach common velocity.

19 It is a swiping contact, so you're not  
20 getting a full vehicle-to-vehicle engagement. It  
21 is, again, coming around the right side of the  
22 Chevrolet, down the left side of the Peterbilt.  
23 But, again, that transfer of energy does not  
24 explain the magnitude of energy available within  
25 the Chevrolet to then deliver the magnitude of the

1 frontal collision that we see.

2       You know, the -- for what it's worth, as you  
3 listen to the audio of the officer, he -- you  
4 know, he's talking about the Chevrolet striking  
5 the back of the International and then the  
6 Peterbilt making a secondary -- the secondary  
7 contact.

8       I understand Miller -- Mr. Miller's testimony  
9 believes that that to be the same, and even in his  
10 written statement, his statement seems to imply  
11 that same sequence of events, as well.

12       So I think there's several variable -- or  
13 pieces that support that, aside from just a pure  
14 reconstruction of the physical evidence.

15 **Q       Well, and you -- you referenced the officer's**  
16 **dash cam or body cam, I apologize. You would**  
17 **agree with me, then, that they go back and forth**  
18 **about what happened. They're not clear.**

19 **A       He -- it appears that the officer is -- is**  
20 **writing two reports. He's explaining why he's**  
21 **going to write two reports because he -- he,**  
22 **actually -- the way I listened to it, it sounds**  
23 **like there was an earlier event where maybe the**  
24 **Peterbilt kind of came up on and went around the**  
25 **right side and then came back in behind. They**

1 progress up and a secondary event occurred.

2       So he -- he's -- I don't think he's waffling.  
3 He's describing it and his -- it seems to be  
4 pretty clear in my -- when I listened to it, at  
5 least, that there -- this -- this event, the  
6 primary event here is, the Chevrolet's traveling  
7 along, it, you know, slams into the back of the  
8 International, and then the Peterbilt goes to the  
9 shoulder a second time -- actually, is what he's  
10 describing it, the way I'm hearing it, at least --  
11 that goes kind of around and, again, clips these  
12 vehicles in that on-off-the-shoulder movement  
13 secondary to the Chevrolet striking the back of  
14 the International.

15 **Q       And you're -- are you referencing, there was**  
16 **a discussion between two officers, a**  
17 **back-and-forth discussion as to how this unfolded?**

18 A       Yes, it seemed like the one officer who's  
19 writing the accident reports is explaining to  
20 another officer who hadn't seen the video saying  
21 what he saw in the video, why he's writing the  
22 report, is my take of listening to that audio.

23 **Q       Okay. But you would agree that there are**  
24 **different opinions given as to how the accident**  
25 **unfolded within that conversation?**

1     A     I don't know that necessarily there's two  
2     different -- multiple opinions. I think there is  
3     an explanation, and the other officer keeps  
4     asking, "What happened? Explain to me. I  
5     didn't" -- you know, as if he didn't see the video  
6     and -- and he keeps kind of going back through  
7     the -- his recount of it. But, I mean, the -- you  
8     know, the audio will speak for itself, so.

9     **Q     Did you have any telephone conversations with**  
10    **Mr. Hayes or anyone from his office regarding your**  
11    **deposition today?**

12    A     I have, yes.

13    **Q     And how much time will be billed for that**  
14    **conversation?**

15    A     I'm not sure. We had a brief call yesterday  
16    for, I don't know, I'd say more than 15 minutes,  
17    less than an hour. I don't know what the total  
18    time was.

19    **Q     What about anybody -- Mr. Castles or anybody**  
20    **from McAngus?**

21    A     Same. It was kind of a shared call  
22    yesterday.

23    **Q     Okay. Have you been asked to testify in a**  
24    **trial of this case?**

25    A     I mean, I assume since they've disclosed me

1     that they would use me at trial.  I haven't -- I  
2     don't know that we've had a specific discussion  
3     about the trial yet, but...

4     **Q     Have you submitted any bills to them?**

5     A     That would come through our accounting.  I'm  
6     not sure if one's been released yet.  It may have  
7     been.  I'm not sure.

8     **Q     What is your hourly rate?**

9     A     SEA bills my time at 450.

10    **Q     And is that how much you would charge to**  
11    **testify at trial on their behalf?**

12    A     Yes, ma'am.

13    **Q     Do you charge travel expenses, as well?**

14    A     SEA does charge travel time and expense, yes,  
15    ma'am.

16    **Q     Have you been hired by Sweeney, Wingate, and**  
17    **Barrow before?**

18    A     Yes, ma'am.

19    **Q     How many times?**

20    A     I don't know.

21    **Q     Well, ballpark it.  More than ten?  Less than**  
22    **ten?**

23    A     I mean, I've been doing this 17 years.  
24    They've -- I'm sure they've hired me more than ten  
25    times over those years.

1       **Q       How many cases do you currently have with**  
2       **them?**

3       A       A few. I don't know if it's -- you know, I  
4       don't know how many active there would be. A few,  
5       though.

6       **Q       Like, when you say a few, is that three or**  
7       **13?**

8       A       I really don't know. I mean, I don't -- I  
9       don't, you know, add them up or -- I have a list.  
10      I mean, cases in litigation, as you said, cases --  
11      I mean, is it probably at least three? I'm sure  
12      it is. I don't know if it's as many as you said,  
13      13 or not. I'm not sure.

14      **Q       But it could be?**

15      A       I won't say it's impossible. You know,  
16      there's a lot of cases that are -- you know, I  
17      don't hear about for two years. You know, they  
18      sit open and I don't know if they're open or  
19      closed, so.

20      **Q       I understand that for sure. How about this,**  
21      **do you know what percentage of work you do for the**  
22      **plaintiffs versus the defense?**

23      A       I do both. I mean, I'll work for whoever  
24      calls and ask for an opinion. I'll be happy to  
25      give them a -- you know, an honest, objective

1 opinion. But I would say I've estimated in the  
2 past that my work is probably somewhere in the  
3 80-20 split, defense and plaintiff.

4 **Q With 80 percent being defense work?**

5 A Yes, ma'am.

6 **Q How many plaintiff's cases do you have right**  
7 **now?**

8 A I mean, I have several. I mean, I'm working  
9 on a report right now on one. I was working on it  
10 earlier today. But I don't know how many to --  
11 again, I don't have a master list of all my open  
12 or maybe open cases.

13 **Q So, you don't know how many open accident**  
14 **reconstruction cases you have total?**

15 A I do not, no, ma'am.

16 **Q Okay. What percentage of your current**  
17 **professional work would you say is spent in -- or**  
18 **being a forensic expert for litigation cases?**

19 A I mean, cases in litigation is less than  
20 50 percent. I mean, a lot of what we do is, you  
21 know, maybe even just accident response, providing  
22 quick feedback. You know, it could be an accident  
23 that happened this morning.

24 And not that I'm -- I didn't get one today.  
25 But just as an example, we may go out, provide



1 some feedback to an attorney, an insurance  
2 carrier, you know, a personal entity. You know,  
3 that happens all the time and there is no  
4 litigation, never is. Just, maybe it's just  
5 evidence preservation. So, those are -- that's a  
6 separate pocket. And then I do non-litigation  
7 stuff, as well, just general consulting in the  
8 mechanical engineering, biomechanic realm.

9 **Q So, just -- just so I'm clear that I**  
10 **understand, you would say that pretty much a**  
11 **hundred percent of your income is derived from**  
12 **being -- from doing forensic expert work. It's**  
13 **just not all in litigation?**

14 **A** No, ma'am, I wouldn't say that.

15 **Q All right. I misunderstood you.**

16 **A** No. So, litigated -- litigated matters that  
17 ever end up in litigation whatsoever, or even have  
18 an attorney involved is -- I would say is less  
19 than 50 percent of what my daily work tasks things  
20 are.

21 I have, you know, consulting for various  
22 parties. You know, maybe just, you know,  
23 documenting, preserving, answering questions. I  
24 do pre-market testing for clients, product -- help  
25 with product development.

1 I have managerial roles, training roles  
2 within the company, for which, you know, that's,  
3 again, part of my job duties, as well, so.

4 **Q So, can you give me an estimate on what you**  
5 **believe -- or what percentage of your income is**  
6 **based on expert forensic work?**

7 A I can't. I mean, again, I'm a fixed salary  
8 employee, you know, so whether I end up doing one  
9 hour this week of forensics or 50, it doesn't  
10 change, so. But, no, I don't -- there's not a  
11 direct tie between one or the other.

12 **Q Okay. Have you ever testified in a trial**  
13 **involving Mr. Barrow's firm?**

14 A Yes.

15 **Q And when was that?**

16 A The last matter I believe I had with them was  
17 last fall, perhaps. I think, maybe last  
18 October-November time frame.

19 **Q And where was that trial held?**

20 A It was pending in Anderson, South Carolina, I  
21 believe.

22 **Q What about for McAngus?**

23 A Not sure. Perhaps last summer? I think -- I  
24 believe I've had one for them in the last  
25 12 months, but I'm not sure.

1       **Q       Okay. And do you know where that trial was**  
2       **held?**

3       A       If the one I'm thinking was for them, I  
4       believe it was in Rock Hill, South Carolina, if  
5       that was -- I can't remember if that was  
6       definitely their firm or not, but it might have  
7       been.

8       **Q       When you have communicated with Mr. Hayes or**  
9       **Mr. Castles, have you done so in email or just**  
10      **over the phone?**

11      A       Generally over the phone. I mean, they may  
12      send me an email that says, "Hey, you know, when  
13      might you be available for deposition," or, "Can  
14      you call me to discuss potential deposition  
15      dates?"

16             At some point, I'm sure they sent an email  
17      that said, "Here's a link to download file  
18      materials," but nothing substantive has been  
19      exchanged in email besides that kind of stuff.

20      **Q       And it's my understanding that you didn't**  
21      **personally take the measurements you relied on for**  
22      **this case; is that correct?**

23      A       That's correct. I had my colleague and my  
24      FARO scope out to do the laser scanning to provide  
25      me that data.

1 MS. CARROWAY: All right. Mr. Boggess,  
2 I feel like that's all the questions I have  
3 in this case. Please answer any questions  
4 either of your attorneys may have.

5 THE WITNESS: Okay.

6 MR. GENDE: I have no --

7 MR. CASTLES: I don't have any  
8 questions.

9 (There being no further questions, the  
10 deposition concluded at 3:35 p.m.)  
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## 1 CERTIFICATE OF REPORTER

2 I, Cassandra E. Vance, Court Reporter  
3 and Notary Public in and for the State of  
4 South Carolina, do hereby certify that I  
5 reported the deposition of BRIAN M. BOGGESS,  
6 M.S., P.E., on the 27th day of February,  
2025; that the witness was first duly sworn  
by me, and that the foregoing 27 pages  
constitute a true and correct transcription  
of the said deposition.

7 I further certify that I am neither  
8 attorney nor counsel for, nor related to or  
9 employed by, any of the parties connected  
with this action, nor am I financially  
interested in said cause.

10 I further certify that the original of  
11 said transcript shall be hereafter sealed and  
12 delivered to Lauren Heath Carroway, Esq.,  
Morgan & Morgan, 1544 Fording Island Road,  
Suite A, Hilton Head, South Carolina 29926.

13 This sealed original transcript shall be  
14 retained by the above party, who shall be  
15 responsible for filing same with the Court  
prior to trial or any hearing which might  
result in a final order on any issue.

16 IN WITNESS WHEREOF, I have hereunto set  
17 my hand and seal this 6th day of March, 2025.

18  
19 

20 \_\_\_\_\_  
21 Cassandra E. Vance, Court Reporter  
22 Notary Public for South Carolina  
23 My commission expires: 12-13-2027  
24  
25

1 VERIFICATION OF DEPONENT  
2

3 I, BRIAN M. BOGGESS, M.S., P.E., have  
4 read the foregoing deposition testimony,  
5 which was reported by Cassandra E. Vance,  
6 Court Reporter and Notary Public in and for  
7 the State of South Carolina, on February 27,  
8 2025.

9  
10 I find the transcript of the deposition  
11 to be a true and accurate transcript  
12 according to my testimony on that date, with  
13 the exception of \_\_\_\_\_ corrections as  
14 listed on the attached errata page, which was  
15 filled in by me.

16  
17  
18  
19 \_\_\_\_\_  
20 BRIAN M. BOGGESS, M.S., P.E.

21 \_\_\_\_\_, 20\_\_\_\_.  
22  
23  
24  
25

## E R R A T A   P A G E

Page #	Line #	Change/Correction (and Explanation)
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The above changes were noted by me on this errata page before signing the attached Verification of Deponent. I have retained a copy of this errata page for my records, and the court reporter is to attach this page and my verification to the original transcript.

Dated: \_\_\_\_\_

**Deposition Errata Sheet**

**Deponent:** Brian M. Boggess, P.E.  
**Deposition Date:** February 27, 2025  
**Reporter:** Cassandra E. Vance  
**Case Caption:** Marberger v. Nivens, et al.  
**Case Number:** 3:22-cv-02375-MGL

Declaration under Penalty of Perjury

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the Deposition Errata Sheet hereof, with the understanding that I offer these changes as if still under oath.

<u>Page/Line</u>	<u>Change Request</u>
005/16	Insert "an analysis of" between "completed" and "what"
008/11	Insert ", but my associated did." after "not"
012/03	Change "axles" to "axle"
017/06	Change "Peterbilt's" to "Peterbilt"
017/06	Change "propellant" to "to propel it"
020/04	Insert end quotation mark after me.
020/04	Delete "I"
020/05	Delete "didn't - - you know"
026/23	Change "my" to "he used"
026/24	Insert "a" before "FARO"
026/24	Change "scope out" to "scanner"

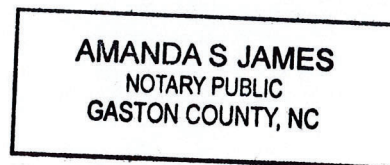
By: Brian Boggess Date: 3/19/2025  
Brian M. Boggess

State of North Carolina, County of Mecklenburg

Sworn to and subscribed before me on this  
19 day of March, 2025.

Amanda S. James  
Notary Public

My Commission expires: 04/19/2026



(seal)